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*Ranjit Kripalani and Jennifer S. Sandefur*

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10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12 MAINE STATE RETIREMENT  
13 SYSTEM, Individually and On Behalf  
14 of All Others Similarly Situated,

15 Plaintiff,

16 vs.

17 COUNTRYWIDE FINANCIAL  
CORPORATION, et al.,

18 Defendants.  
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CASE NO. 2:10-CV-00302 MRP (MANx)

**RANJIT KRIPALANI AND  
JENNIFER S. SANDEFUR'S  
REQUEST FOR ENTRY OF ORDER  
OF DISMISSAL WITH PREJUDICE**

Courtroom: 12

Judge: Hon. Mariana R. Pfaelzer

**I. PROCEDURAL HISTORY SUPPORTING DISMISSAL**

Ranjit Kripalani and Jennifer S. Sandefur hereby request that the Court enter an order dismissing them from the instant action with prejudice as they are no longer parties to this case. *See Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990). Mr. Kripalani and Ms. Sandefur, therefore, submit this request in lieu of submitting a supplemental brief pursuant to the Court's recent order.

On August 16, 2010, Mr. Kripalani and Ms. Sandefur filed a motion to dismiss (Docket No. 152) Plaintiffs' Amended Consolidated Class Action Complaint ("Amended Complaint").<sup>1</sup> On November 4, 2010, the Court dismissed this action and granted Plaintiffs leave to amend their pleading (the "Order"). (Docket No. 222.) In its Order, the Court specifically instructed Plaintiffs, in amending their deficient Amended Complaint, to, *inter alia*, "eliminate those individual defendants and claims for which the statute of limitations has expired." (Order at 4.) The Court noted that "some individual defendants have made a persuasive case for why they should be eliminated from the lawsuit even if *American Pipe* [tolling] applies." (Id. at 12.) Thereafter, on December 6, 2010, Plaintiffs filed their Second Amended Class Action Complaint ("Second Amended Complaint"), but did not name Mr. Kripalani and Ms. Sandefur as defendants. (Docket No. 227.) Under well-settled law, Plaintiffs' decision to drop Mr. Kripalani and Ms. Sandefur as defendants in the Second Amended Complaint requires their dismissal with prejudice.

**II. MR. KRIPALANI AND MS. SANDEFUR SHOULD BE DISMISSED.**

It is axiomatic that an amended complaint supersedes the previous complaint. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992) (citing *Hal Roach Studios*,

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<sup>1</sup> Mr. Kripalani and Ms. Sandefur also joined the Motion to Dismiss filed by Countrywide Financial Corp., Countrywide Home Loans, Inc., CWALT, Inc., CWMBS, Inc., CWABS, Inc., CWHEQ, Inc., Countrywide Capital Markets, Countrywide Securities Corporation, and N. Joshua Adler. (Docket No. 158.)

1 *Inc.*, 896 F.2d at 1546). As a consequence, defendants named in an original  
2 complaint who are not named in an amended complaint are dismissed. *See Hal*  
3 *Roach Studios, Inc.*, 896 F.2d at 1546.

4 Here, Plaintiffs initially named Mr. Kripalani and Ms. Sandefur as  
5 defendants in their Amended Complaint, which the Court dismissed through its  
6 Order. In its Order, following Defendants' motions to dismiss, the Court  
7 specifically instructed Plaintiffs to "eliminate those individual defendants and  
8 claims for which the statute of limitations has expired." (Order at 4.) Following  
9 the Court's specific directive, Plaintiffs dropped Mr. Kripalani and Ms. Sandefur as  
10 defendants by not naming them in the Second Amended Complaint. Accordingly,  
11 Mr. Kripalani and Ms. Sandefur are dismissed from this case.

12 **III. DISMISSAL SHOULD BE WITH PREJUDICE.**

13 Because Plaintiffs would never be able to cure by amendment their flawed  
14 allegations against Mr. Kripalani and Ms. Sandefur, dismissal with prejudice is  
15 appropriate. *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (dismissing with  
16 prejudice is appropriate where plaintiff cannot cure by amendment). In their  
17 Motion to Dismiss Plaintiffs' Amended Complaint, Mr. Kripalani and Ms. Sandefur  
18 provided a step-by-step analysis clearly demonstrating that Plaintiffs' allegations  
19 against them were absolutely time-barred even if tolling applied. In dismissing  
20 Plaintiffs' Amended Complaint based on threshold issues concerning standing and  
21 the statute of limitations, the Court noted that "the one-year limitations period  
22 clearly appears to have expired for all the Offerings . . . ." (Order at 8.) With  
23 respect to allegations against Mr. Kripalani and Ms. Sandefur, Plaintiffs could  
24 never cure the statute of limitations violation by amendment, a point underscored  
25 by Plaintiffs' decision to drop Mr. Kripalani and Ms. Sandefur as defendants in the  
26 Second Amended Complaint. Accordingly, dismissal with prejudice is appropriate  
27 in this case.

1 **IV. CONCLUSION**

2 For the foregoing reasons, Mr. Kripalani and Ms. Sandefur respectfully  
3 request that the Court enter an order of dismissal with prejudice.

4 Dated: January 14, 2011 PAUL, HASTINGS, JANOFSKY & WALKER LLP  
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8 By: /s/ Joshua G. Hamilton  
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